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EXAMINER	
TIEU, BENNY QUOC	

ART UNIT	PAPER NUMBER
2642	15

DATE MAILED: 07/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No.	Applicant(s)	
	09/833,301	PETRUSHIN, VALERY A.	
	Examiner	Art Unit	
	Benny Q. Tieu	2642	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

   (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ they raise the issue of new matter (see Note below);

   (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *see attached sheets*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: *2-4*.

   Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☐ Other: _____

Benny Q. Tieu
Primary Examiner
Art Unit: 2642

The Examiner strongly believes the Applicant's specification does not support the claimed limitations.

Applicant states that "No portion of the claim requires the step of determining from the pre-recording whether said first speech portion satisfies a monitoring condition". But this is wrong. The Examiner directs the Applicant to columns 8 and 9 of the '602 patent which states: "A portion of the audio and/or screen data may be pre-recorded prior to and in support of performing step 200, in which the monitoring condition is tested." (emphasis added). Clearly, the pre-recorded portion in step a is used for the purpose of determining the monitoring condition in step b of the claims.

Further in the response, Applicant agrees that the first step of claims 2-4 requires that some portion of a telephone speech be recorded in advance of the second step. Applicant also agrees that the second step requires some determination be made from that portion of the telephone speech. Applicant then puts a condition "but it can be in "real-time"". Based on Webster's New World Dictionary, third college edition, "pre-" is "before in time, earlier (than), prior (to)". Hence, "real-time" condition that Applicant relies on is wrong.

Applicant continues that "This "real-time" analysis of the speech, as opposed to a playback mode, is precisely the fact situation that the Examiner has constructed from the applicant's specification and so it must be supported under 35 U.S.C. 112". Applicant should note that the Examiner has never constructed from the applicant's specification that the event is in real-time or in a playback mode.

In addition, Applicant directs the Examiner to columns 6 and 7 of the '602 patent for the Applicant's arguments "real-time" analysis. It should be noticed that the specification including

many embodiments. The columns that Applicant directed to is simply not the claimed embodiment where step a is pre-recording, step b is determining and step c is recording a second portion.

Applicant further argues that "There is nothing in claims 2-4 or the '602 patent that precludes the alarm condition occurring in real-time. While according to claims 2-4 there must be a first portion of speech that is recorded, and there must be some triggering characteristic observed in this first portion of the speech, the claims do not require that this triggering characteristic be extracted from the recording - it merely needs to be extracted from the speech itself either in "real-time" or in "play-back"." The Examiner respectfully disagrees. Applicant states that "a first portion of speech is recorded". This is incorrect. Claims 2-4 require a first portion of speech is PRE-RECORDED. Since Applicant's arguments are outside of the scope of the claims, the Examiner needs not to response further in details for these arguments.

In conclusion, the Examiner maintains the 35 U.S.C. 112, first paragraph rejection and the 35 U.S.C. 102(e) rejection of claims 2-4.

Benny Q. Tieu

BENNY TIEU
PRIMARY EXAMINER

THIRD COLLEGE EDITION

Webster's New World™ Dictionary

OF AMERICAN ENGLISH

VICTORIA NEUFELDT
Editor in Chief

DAVID B. GURALNIK
Editor in Chief Emeritus

Webster's New World
Cleveland & New York

Dedicated
to David B. Guralnik
lexicographical mentor
and friend

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PRACTICE] permission to do business at a port, granted to a ship that has complied with quarantine or health regulations

Prato (prä'tô) commune in Tuscany, central Italy, near Florence: pop. 160,000

prat·tle (prat'l) *vi., vt.* **-tled, -tling** [MLowG *pratelen*, akin to MDu *praten*, PRATE] **1** PRATE **2** to speak in a childish way; babble —*n.* **1** idle chatter **2** childish babble —**prat'tler** *n.*

prau (prä'ou, prou) *n. var. of* PROA

prawn (prôn) *n.* [ME *prane* < ?] a large shrimp or other similar crustacean —*vi.* to fish for prawns —**prawn'er** *n.*

prax·is (praks'is) *n.* [ML < Gr < *prassein*, to do] **1** practice, as distinguished from theory, of an art, science, etc. **2** established practice; custom **3** [Now Rare] a set of examples or exercises, as in grammar

Prax·it·e·les (praks it'ə lēz') [L < Gr *Praxitelēs*] 4th cent. B.C.; Athenian sculptor

pray (prā) *vt.* [ME *preien* < OFr *preier* < LL *precare*, for L *precari* < *prex* (gen. *precis*), prayer < IE **prek-*, var. of base **perk-*, question > Ger *frage*, question] **1** orig., to implore or beseech: now seldom used except as the elliptical form of "I pray you" *[pray tell me]* **2** to ask for by prayer or supplication; beg for imploringly **3** to recite (a prayer) **4** to bring about, get, etc. by praying —*vi.* **1** to ask very earnestly; make supplication, as to a deity **2** to worship God, a god, etc., as by reciting certain set formulas —***SYN.*** APPEAL

prayer[1] (prer) *n.* [ME *preiere* < OFr < ML *precaria* < L *precarius*, obtained by begging < *precari*, to entreat: see prec.] **1** the act or practice of praying, as to God **2** an earnest request; entreaty; supplication **3** *a)* a humble and sincere request, as to God *b)* an utterance, as to God, in praise, thanksgiving, confession, etc. *c)* any set formula for praying, as to God **4** *[often pl.]* in some religions, a devotional service consisting chiefly of prayers **5** any spiritual communion, as with God **6** something prayed for or requested ☆**7** [Slang] a chance to succeed *[I don't have a prayer]*

pray·er[2] (prā'ər) *n.* a person who prays

prayer beads ROSARY

prayer book a book of formal religious prayers —**[P- B-]** BOOK OF COMMON PRAYER

prayer·ful (prer'fəl) *adj.* **1** given to frequent praying; devout **2** like or expressive of prayer —**prayer'ful·ly** *adv.* —**prayer'ful·ness** *n.*

prayer shawl TALLITH

prayer wheel a revolving drum with written prayers, used by Tibetan Buddhists, like a rosary, in counting prayers

praying mantis MANTIS

pre- (prē, pri) [ME < OFr & L: L *prae-* < *prae*, before, in front of < IE **prai-*, var. of base **per-*, beyond > FORE-, FIRST] *prefix* **1** before in time, earlier (than); prior (to) *[preexist, prewar]* **2** before in place, in front (of); anterior (to) *[preaxial]* **3** before in rank, superior (to); surpassing *[preeminent]* **4** preliminary to, in preparation for *[preschool]* Cf. PRAE-

PRAYING MANTIS

preach (prēch) *vi.* [ME *prechen* < OFr *prechier* < LL(Ec) *praedicare*, to preach the gospel < L, to declare in public, admonish < *prae-*, PRE- + *dicare*, to proclaim, akin to *dicere*, to say: see DICTION] **1** to speak in public on religious matters; give a sermon **2** to give moral or religious advice, esp. in a tiresome manner —*vt.* **1** to expound or proclaim by preaching **2** to advocate by or as by preaching; urge strongly or persistently **3** to deliver (a sermon)

preach·er (prēch'ər) *n.* [ME *prechur*] a person who preaches; esp., a member of the clergy

preach·i·fy (prēch'ə fī') *vi.* **-fied', -fy'ing** [Colloq.] to preach or moralize in a tiresome manner

preach·ment (prēch'mənt) *n.* [ME *prechement* < OFr < LL *praedicamentum*: see PREDICAMENT] a preaching or sermon, esp. a long, tiresome one

preach·y (prēch'ē) *adj.* **preach'i·er, preach'i·est** [Colloq.] given to or marked by preaching, or moralizing

pre·ad·ap·ta·tion (prē'ad ap tā'shən) *n.* the possession of certain characteristics by an organism which make it more adaptable to a future environmental change than similar organisms are —**pre'-a·dapt'ive** *adj.*

pre·am·ble (prē'am'bəl, prē am'-) *n.* [ME < MFr *preambule* < ML *praeambulum*, neut. of LL *praeambulus*, going before < L *praeambulare*, to precede < *prae-*, before + *ambulare*, to go: see AMBLE] **1** an introduction, esp. one to a constitution, statute, etc., stating the reasons for it and its purpose **2** an introductory fact, event, etc.; preliminary —***SYN.*** INTRODUCTION

pre·amp (prē'amp') *n. short for* PREAMPLIFIER

pre·am·pli·fi·er (prē am'plə fī'ər) *n.* in a radio, phonograph, etc., an auxiliary amplifier for boosting the voltage of a weak signal before it reaches the input of the main amplifier

pre·ar·range (prē'ə rānj') *vt.* **-ranged', -rang'ing** to arrange beforehand —**pre'ar·range'ment** *n.*

pre·ax·i·al (prē aks'ē əl) *adj. Anat.* situated in front of the axis of the body or a limb; esp., of the radial side of the arm or the tibial side of the leg

preb·end (preb'ənd) *n.* [ME *prebende* < MFr < ML(Ec) *prebenda* < LL *praebenda*, state support to a private person < neut. pl. ger. of L *praebere*, to grant < *prae-*, before + *habere*, to have] **1** the part of the revenues of a cathedral or collegiate church paid as a clergyman's salary **2** the property or tax that yields such revenue **3** PREBENDARY —**pre·ben·dal** (prē ben'dəl, pri-) *adj.*

preb·en·dar·y (preb'ən der'ē) *n., pl.* **-dar'ies** [ME *praebendarius*] **1** a person receiving a prebend an honorary canon with only the title of a prebe

prec preceding

Pre·cam·bri·an (prē kam'brē ən) *adj.* designati geologic era, covering all the time before the C often divided into a **Late Precambrian Era** an **brian Era** —**the Precambrian** the Precambrian GEOLOGY, chart

pre·can·cel (prē'kan'səl) *vt.* **-celed** or **-celled, -c** cancel (a postage stamp) before use in mailing participle —*n.* a precanceled stamp —**pre'can'c**

pre·can·cer·ous (prē'kan'sər əs) *adj.* that may c cancerous *[a precancerous mole]*

pre·car·i·ous (prē ker'ē əs, pri-) *adj.* [L *precar* orig., dependent upon the will or favor of anoth ent upon circumstances; uncertain; insecure *[a* dependent upon chance; risky *[a precarious* foc upon mere assumption; unwarranted *[a precari* **car'i·ous·ly** *adv.* —**pre·car'i·ous·ness** *n.*

pre·cast concrete (prē'kast') concrete in the fo bridge sections, etc. that have been cast into fo into position

prec·a·to·ry (prek'ə tôr'ē) *adj.* [LL *precatorius* < of, having the nature of, or expressing entre (-tiv)

pre·cau·tion (prē kô'shən, pri-) *n.* [Fr *précautio* L *praecautus*, pp. of *praecavere* < *prae-*, before to take care: for IE base see HEAR] **1** care taker used in advance **2** a measure taken beforeh danger, failure, etc. —**pre·cau'tion·ar'y** *adj.*

pre·ca·va (prē kā'və) *n., pl.* **-vae** (-vē) [PRE- superior vena cava of four-limbed vertebrates –

pre·cede (prē sēd', pri-) *vt.* **-ced'ed, -ced'ing** [*précéder* < L *praecedere:* see PRE- & CEDE] before in time, place, order, rank, or importanc prefatory remarks, etc. —*vi.* to be, come, or go

prec·e·dence (pres'ə dəns; prē sēd''ns, pri-) *n.* right, or fact of preceding in time, order, ran because of superiority in rank **3** an official or of dignitaries in order of importance Also **prec**

pre·ced·ent (*for adj.* prē sēd''nt, pri-; *for n.* pre MFr *précédent* < L *praecedens*, prp. of *praeced* precedes; preceding —*n.* **prec'e·dent** **1** an act, sion, case, etc. that may serve as an example, r for a later one **2** a practice based upon earlier

prec·e·den·tial (pres'ə den'shəl) *adj.* **1** of, hav serving as a precedent **2** having precedence; p

pre·ced·ing (prē sēd'iŋ, pri-) *adj.* that prece before

pre-cen|sor (prē'sen'sər) *vt.* to determine arbitr may or may not be permitted in (books, m releases, etc.) —**pre'-cen'sor|ship'** *n.*

pre·cen·tor (prē sen'tər) *n.* [LL *praecentor* < or play before: see PRE- & CHANT] a person choir or congregation in singing —**pre·cen·to** *adj.* —**pre·cen'tor·ship'** *n.*

pre·cept (prē'sept') *n.* [ME < L *praeceptum* < ish, teach < *prae-*, before (see PRE-) + *caper* mandment or direction meant as a rule of actic of moral conduct; maxim **3** a rule or directio ters **4** *Law* a written order; writ —***SYN.*** DOCT

pre·cep·tive (prē sep'tiv, pri-) *adj.* [LL *praec* the nature of, or expressing a precept **2** givin didactic —**pre·cep'tive|ly** *adv.*

pre·cep·tor (prē sep'tər, pri-) *n.* [L *praecep* PRECEPT] **1** a teacher **2** the head of a prece (prē'sep tôr'ē əl) *adj.* —**pre·cep'tor·ship'** *n.* –

pre·cep·to|ry (prē sep'tə rē, pri-) *n., pl.* -rie estate of a preceptor < L *praeceptor:* see PRI community or religious house of the mediev subordinate to the London Temple **2** its esta

pre·cess (prē ses', pri-) *vi.* [back-form. < fol sion

pre·ces·sion (prē sesh'ən, pri-) *n.* [ME < *praecedere*, to PRECEDE] **1** the act of pre *Astron. short for* PRECESSION OF THE EQUINO exhibited by a spinning body, as a top, when a to change the direction of its rotational axis, ally to describe a cone and to turn at right an the torque —**pre·ces'sion|al** *adj.*

precession of the equinoxes *Astron.* the noxes earlier in each successive sidereal year ble in the earth's axial spin which shifts slightly westward along the ecliptic: the wobb of the sun and moon on the earth's equatoria poles move around a center point (axis of the 25,800 years to return to the same orientatio

pre·cinct (prē'siŋkt') *n.* [ME *precincte* < *praecinctus*, pp. of *praecingere*, to encompa PRE-) + *cingere*, to surround, gird (see CINCH) enclosure between buildings, walls, etc. *b)* grounds immediately surrounding a religious environs; a neighborhood ☆**3** *a)* a division administration *b)* a subdivision of a ward, a [Brit., etc. (exc. Cdn.)] an area in a town clo for shopping **5** any limited area, as of thoug